

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

YVES FLORESTAL,	*	C.A. No.
	*	
Plaintiff,	*	
	*	
v.	*	
	*	
GOLDEN HARRINGTON, LLC,	*	
a Delaware limited	*	
liability company, and	*	
TWENTY-NINE CORP., a	*	TRIAL BY JURY DEMANDED
Maryland corporation,	*	
	*	
Defendants.	*	

**COMPLAINT**

1. Plaintiff Yves Florestal is a resident of the State of Delaware.

2. Defendant Golden Harrington, LLC, is a Delaware limited liability company whose registered agent for service of process is Michael A. Meoli, 4541 Highway One, Rehoboth Beach, Delaware 19971.

3. Defendant Twenty-Nine Corp. is a Maryland corporation whose registered agent for service of process is Tunnell & Raysor, P.A., 30 East Pine Street, P.O. Box 151, Georgetown, Delaware 19947.

4. Defendants are employers within the State of Delaware and within the jurisdictional coverage of Title VII of the Civil Rights Act.

5. Jurisdiction is conferred on this Court by 42 U.S.C. §2000e-5(f)(3) and by 28 U.S.C. §1343.

6. This Court has pendent jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. §1367.

7. Venue for all causes of action stated herein lies in the District of Delaware, as the acts alleged as the bases for these claims took place within the boundaries of that District.

8. Plaintiff brings this action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e *et seq.*; under 42 U.S.C. §1981; and under the indicated state law causes of action, to redress the wrongs done by him by Defendants' discrimination against him on the basis of his race, sex, and national origin.

9. Plaintiff timely submitted a complaint of discrimination on the basis of race, sex, and national origin to the Delaware Department of Labor ("DDOL") and the Equal Employment Opportunity Commission ("EEOC").

10. Plaintiff has received a Notice of Right to Sue for the above-referenced charge from the EEOC.

11. Plaintiff has timely filed this Complaint within 90 days of his receipt of the Notice of Right to Sue.

12. Plaintiff is a black male, and his national origin is Haitian.

13. Prior to his termination by Defendants, Plaintiff was employed by Defendants as a swing manager at their business location in Harrington, Delaware.

14. At all times relevant to this Complaint, Plaintiff was qualified for his job position and satisfactorily performed all duties of his job position.

15. During his employment, Plaintiff was subjected to a hostile work environment based upon his sex, race, and national origin, when he was harassed by his store manager, Cheryl Stinson, a white female of American origin.

16. Plaintiff also suffered disparate treatment in comparison to other similarly situated managers who were white, female, and of American origin, including denial of training and promotional opportunities, and disparate treatment with regard to issuance of discipline.

17. Plaintiff complained to upper management regarding the harassment and disparate treatment, but upper management refused to correct the situation.

18. On or about October 10, 2005, Plaintiff walked off the job in frustration due to the harassment and disparate treatment. When he subsequently asked Mike Meoli, the principal of the organization, if he could return, his request was denied, even though several similarly situated managers not in the protected class (i.e., white, female, and of American origin) had been allowed to return after walking off the job.

19. The actions of Defendants in harassing Plaintiff, discriminating against him, and refusing to allow him to return to work were wrongful and discriminatory against Plaintiff on the basis of his race, sex, and national origin.

20. The wrongful acts committed by Defendants, as stated hereinabove, were wilful, wanton, and committed in bad faith.

21. As a direct result of the actions of Defendants, Plaintiff has suffered damages, including but not limited to,

severe emotional distress, pain and suffering, mental anguish, humiliation, and lost wages.

**COUNT I -- TITLE VII**

22. Plaintiff restates and hereby incorporates by reference paragraphs 1 through 21 of this Complaint.

23. By committing the aforementioned acts, Defendants have discriminated against Plaintiff on the basis of his race, sex, and national origin in violation of 42 U.S.C. §2000e, et seq.

24. As a direct result of the discriminatory conduct of Defendants, Plaintiff has suffered damages, including but not limited to, physical and emotional injury, pain and suffering, mental anguish, humiliation, and lost wages.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, for:

- (a) Back pay, including interest;
- (b) Compensatory damages, including damages for emotional and physical pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and all other non-pecuniary damages;
- (c) Punitive damages;
- (d) Pre-judgment and post-judgment interest;
- (e) Attorney's fees;
- (f) Reinstatement, if feasible, or, in the alternative, front pay; and
- (g) Any other relief that this Court deems just.

**COUNT II -- 42 U.S.C. §1981**

25. Plaintiff hereby restates and incorporates by reference paragraphs 1 through 24 hereinabove.

26. By committing the aforementioned acts, and specifically by discriminating against Plaintiff on the basis of his race, Defendants have violated 42 U.S.C. §1981.

27. As a direct result of the discriminatory conduct of Defendants, Plaintiff has suffered damages, including but not limited to, physical and emotional injury, pain and suffering, mental anguish, humiliation, and lost wages.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, for:

- (a) Back pay, including interest;
- (b) Compensatory damages, including damages for emotional and physical pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and all other non-pecuniary damages;
- (c) Punitive damages;
- (d) Pre-judgment and post-judgment interest;
- (e) Attorney's fees;
- (f) Reinstatement, if feasible, or, in the alternative, front pay; and
- (g) Any other relief that this Court deems just.

**COUNT III -- BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING**

28. Plaintiff hereby restates and incorporates by reference paragraphs 1 through 27 hereinabove.

29. By their actions as described in this Complaint, Defendants have breached the covenant of good faith and fair dealing implied under Delaware law.

30. As a direct result of the wrongful conduct of Defendants, Plaintiff has suffered damages, including but not limited to, physical and emotional injury, pain and suffering, mental anguish, humiliation, and lost wages.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, for:

- (a) Back pay, including interest;
- (b) Compensatory damages, including damages for emotional and physical pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and all other non-pecuniary damages;
- (c) Punitive damages;
- (d) Pre-judgment and post-judgment interest;
- (e) Attorney's fees;
- (f) Reinstatement, if feasible, or, in the alternative, front pay; and
- (g) Any other relief that this Court deems just.

SCHMITTINGER & RODRIGUEZ, P.A.

BY: 

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(302) 674-0140  
Attorneys for Plaintiff

DATED: 3-1-07  
NEP:pmw

JS 44 (Rev. 11/04)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Yves Florestal

(b) County of Residence of First Listed Plaintiff Kent  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)  
Noel E. Primos, Esquire, Bar I.D. #3124  
Schmittinger & Rodriguez, P.A.  
414 S. State St., Dover, DE (302)674-0140

## DEFENDANTS

Golden Harrington, LLC, a Delaware limited liability company, and Twenty-Nine Corp., a Maryland corporation,

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 2 U.S. Government Defendant  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                            |   |                            |                            |
|---|---------------------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                                   | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. § 2000e et seq.; 42 U.S.C. § 1981

Brief description of cause:

Plaintiff seeks damages for discrimination based on sex, race &amp; national origin.

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

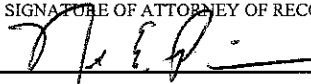
(See instructions):

JUDGE

DOCKET NUMBER

DATE 3-01-07

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_